

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2825 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARSINHBHAI B CHAVDA

Versus

STATE OF GUJARAT

Appearance:

MR SN SOPARKAR for Petitioner (Absent)
M/S MG DOSHIT & CO for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER

Date of decision: 12/11/97

ORAL JUDGEMENT

1. This petition is filed against an order dt. May 20, 1986, Annexure.H to the petition by which the petitioner, who was working on the post of Gujarati Typist, was reverted to the post of Watchman. Interim relief was also prayed.

2. The case of the petitioner is that in 1966 he failed to clear SSC examination. Thereafter, he got his

name registered with Employment Exchange and on May 16, 1978 he was appointed as a watchman in Government Central Press, Gandhinagar as Class IV employee. Since then, he was working with the respondents. The petitioner desired to seek higher avenues and hence he appeared in the Government Commercial Certificate Examination held by the Gujarat Government Examination Board in the subject of Gujarati Typist in February 1982 wherein he was declared as passed, having the speed of 25 words per minute. Certificate was issued in his favour. Thus, he was eligible to be appointed as Gujarati Typist in accordance with the provisions of the Gujarat Non-Secretariate Gujarati Typists Recruitment Rules, 1970. He was, therefore, appointed to the post of Gujarati Typist but illegally and abruptly, he was reverted and hence he approached this court.

Initially, notice was issued and in the meanwhile status quo was granted. After hearing the parties, however, Rule was issued but interim relief was modified by stating that it was open to the petitioner to proceed on leave, but status quo was vacated. The matter is now called out for final hearing.

Though appearance of Mr.S.N.Soparkar is shown, nobody is present. Mr.P.G.Desai, Government Pleader appears on behalf of the respondents. Mr.Desai placed reliance on affidavit-in-reply filed by Mr.T.S.Venkat Subramaniam, Manager, Government Central Press, Gandhinagar. In para 3 of the counter, it was stated that the petitioner was appointed from time to time on leave vacancy of a Watchman from May 16, 1975 onwards. Certain dates were mentioned including period of break in service. It is further stated that the date of birth of the petitioner was December 10, 1945 and hence, at the time of initial appointment in May 1975, he crossed the age of 30 years. He was regularised in service on July 14, 1980 when his age was above 34 years. According to Recruitment Rules for the post of watchman, maximum age limit was 28 years and in case of Scheduled Caste candidate, there could be relaxation of five years. Thus, at the most, a person could be recruited as watchman Class IV post, belonged to Scheduled Caste upto the age of 33 years. In the instant case, when the service of the petitioner were regularised, he crossed even that maximum age limit. But in any case, the claim put forward by the petitioner in this petition was not well founded.

It was stated in the affidavit that the petitioner was never appointed as a Gujarati Typist. One

Mr.B.G.Patel, who was working as Gujarati typist resigned during the period of strike. Hence, only by way of stop gap arrangement as the petitioner was knowing Gujarati typing, he was appointed as Gujarati Typist on 1st of July 1985 on probation on purely temporary basis by an order dt. July 25, 1985. Within a very short period, however, one Mr.N.A.Bhatia put forward his claim on the ground that he was also eligible to be appointed as "Gujarati Typist" and he was qualified. Moreover, he was senior to the petitioner. When the petitioner came to know that Mr.Bhatia has put forward his claim before the Department, he rushed to the court of Civil Judge (S.D.) at Narol by filing a Civil Suit and obtained interim relief. Similarly, Mr.Bhatia approached this court by filing Special Civil Application No.5438 of 1985. Some orders were passed in both the proceedings. The department called both of them and after hearing them decided to take test of both of them for appointment to the post of Gujarati Typist. It is also stated that at that time, the petitioner made a statement that whatever be the decision he would abide by the same. Accordingly, the test was taken in which both of them failed. In these circumstances, the action was taken by passing the impugned order of reversion. Though the order was passed and the petitioner was sought to be served, he did not accept the order and went away.

In the light of the above affidavit-in-reply, in my opinion, it cannot be said that the action taken by the respondent authorities can be said to be illegal, arbitrary or otherwise unreasonable. From the affidavit-in-reply, it appears to be a case of the Deponent that even at the initial stage the petitioner could not have been appointed and/or regularised but in any case when the petitioner was appointed as Gujarati Typist purely on probation as Mr.Patel had resigned from service he had no lien over the post or right to hold it. Again, as stated in the counter, Mr.Bhatia was senior to the petitioner and as per the order passed by this court in Special Civil Application filed by Mr.Bhatia, the Department decided to take test of both the persons, namely, the petitioner as well as Mr.Bhatia. When neither of them was found to be fit, and if the petitioner is reverted, he cannot make any grievance against such an order of reversion. The order was legal, valid and proper.

In my opinion, therefore, no case is made out by the petitioner against the order of reversion passed against him. I do not see any reason to interfere with the said order. The petition deserves to be dismissed

and is accordingly dismissed. Rule is discharged.
Interim relief vacated. No order as to costs.

Dt. 12.11.1997. (C.K.THAKKER J)
